

REMARKS

In the Office Action the Examiner has objected to the drawings in that the reference character 99' shown in Fig. 10D is not mentioned in the description. Also, the Examiner has rejected claims 7 and 10 for being anticipated, and claims 1-10 for being unpatentable. Further, the Examiner has rejected claims 1-20 under the judicially created doctrine of nonstatutory obviousness-type double patenting for being unpatentable over claims 1-17 of U.S. patent No. 6,652,483.

In response to the Office Action, Applicant has amended the specification to make proper reference to the character 99' shown in Fig. 10D. Applicant has also amended all of the independent claims (i.e. claims 1, 7 and 11) to now specifically require two different plungers, operating on respective fluid chambers. Specifically, each independent claim now requires a first plunger for injecting fluid from an impulse chamber, and a second plunger for infusing fluid from a reservoir. Appropriate amendments have also been made to dependent claims (i.e. claims 5, 6, 10, 14 and 16). Support for these amendments is found in the specification on page 4 at lines 25-27, on page 5 at lines 3-8, on page 8 at line 1-14, on page 13 at lines 24-27 and in Figs. 10A-D. Claims 1-20 remain pending.

Amendments have been presented to improve the form of the specification. Further, amendments to the claims have been made to improve their readability, to more clearly define the structure of the present invention, and to point out the features which distinguish this invention over the cited art.

Objections to the Specification

The Examiner objected to the drawings because the reference character 99' that is shown in Fig. 10D was not mentioned in the description. Such mention has now been made.

Rejections under 35 U.S.C. § 102

Claims 7 and 10 have been rejected under 35 U.S.C. § 102(b) for being anticipated by Slate et al. (U.S. Patent No. 5,911,703; hereinafter referred to as the '703 Patent). For reasons set forth below, Applicant contends the '703 Patent does not anticipate the amended claims for the present invention.

The presently claimed invention requires two plungers operating on different fluid sources. Specifically, the present invention requires there be a first plunger for injecting fluid from an impulse chamber, and a second plunger for infusing fluid from a reservoir. These first and second plungers are separate structures and are used for different purposes. Specifically, the first plunger injects fluid from the impulse chamber at an elevated pressure to create a hole in the skin for subsequent infusion. Then, in a sequential operation, the second plunger infuses fluid from the reservoir.

Unlike the present invention, the '703 Patent discloses a device that incorporates a single plunger (i.e. plunger 28) for expelling fluid from a single fluid source (i.e. chamber 26). Importantly, the '703 Patent does not teach or suggest the use of two separate plungers as now claimed for the present invention. Thus, the structure and the

cooperation of structure that are required for the present invention are quite different from the device claimed in the '703 Patent.

For the reasons set forth above, Applicant believes the basis for rejecting claims for being anticipated by the '703 Patent has been overcome and should be withdrawn.

Rejections under 35 U.S.C. 103

Claims 1-10 have been rejected under 35 U.S.C. §103 for being unpatentable over Landau (U.S. Patent No. 6,645,170; herein after the '170 Patent) in view of the '703 Patent.

Like the '703 Patent, but unlike the present invention, the device disclosed in the '170 Patent uses only a single plunger (i.e. plunger 66). Moreover, there is no teaching, motivation or suggestion in either the '703 Patent or the '170 Patent for a device with two separate plungers as required by the present invention.

Accordingly, for essentially the same reasons given above with regard to rejections for anticipation, Applicant believes the bases for rejecting claims for being unpatentable have been overcome and should be withdrawn.

Rejections for obviousness-type Double Patenting

Claims 1-20 have been rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting for being unpatentable over claims 1-17 of U.S. Patent No. 6,652,483.

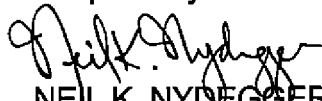
In response to this double patenting rejection, and to overcome the basis for rejecting claims on this basis, Applicant is submitting a Terminal Disclaimer as suggested by the Examiner. Furthermore, with the above-argued responses to rejections for anticipation and obviousness in mind, Applicant has also amended independent claim 11 to correspond with the independent claims 1 and 7 that have now been clearly distinguished from the cited references. Specifically, claim 11 has been amended to clearly require both first and second plungers.

The references cited by the Examiner, but not relied on for the rejection of claims, have been noted.

In conclusion, Applicant respectfully asserts that claims 1-20 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Dated this 31st day of August, 2006.

Respectfully submitted,



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